Planning & Zoning Department
Before the Planning & Zoning Commission
January 8, 2019

STAFF REPORT – PUBLIC HEARING #1
Continued from 10/23/18 Meeting

Conditional Use Permit for a Home Occupation Day Care for up to 12 children at 1023 E. Sheridan Ave. for Mary Luna DBA Mary’s Day Care (CUP 121-18).

Applicant: Mary Luna DBA Mary’s Day Care
File No: CUP 121-18

Prepared by: Norman L. Holm
Date: October 17, 2018

Requested Action: Conditional Use Permit
Purpose: Home Occupation Daycare for up to 12 Children

GENERAL INFORMATION

Status of Applicant: Owner/Operator (Home Renter)

Existing Zoning: RS 6 (Single Family Residential – 6,000 sq. ft.)

Location: 1023 E. Sheridan Ave.

Size of Property: A .10 acre or 4,300 sq. ft. parcel being the east 86’ of Lot 1, Block 12, Kurtz Addition, and a portion of the SE 1/4, Section 27, T3N, R2W, BM

Surrounding Land Use and Zoning:
North- Single family residential, RS 6
South- Single family residential, RS 6
East- Single family residential, RS 6
West- Single family residential, RS 6

Comprehensive Plan Designation: Medium Density Residential
Zoning & Planning History: Constructed as a single-family residential property. Applicant is rents/resides in the home and is the owner/operator of the Day Care.

The Planning and Zoning Commission at their October 23, 2018 meeting opened the public hearing on the CUP request and continued the hearing to the January 8, 2019 meeting. The applicant/renters home did not currently meet the Nampa Fire Department exiting requirements for a Licensed Group Daycare (up to 12 Children). The Commission determined to continue the hearing for possible decision at the January 8, 2019 meeting.

Staff contacted the applicant Ms. Luna on December 27th asking if the back door had yet been replaced as required. The applicant indicated that they have continued to operate with fewer than 7 children and hoped to be able to replace the door this upcoming March and begin caring for up to 12 children at that time. Ms. Luna indicated she would attend the continued hearing on January 8th to request that the hearing be again continued to the March 27th Planning and Zoning Commission Meeting.

Applicable Regulations: Section 10-3-2 requires a conditional use permit for a home occupation daycare for up to 12 children in RS zones.

Chapter 25 sets forth the criteria of approval and required findings. These criteria essentially require that the use be compatible with and not adversely affect the livability or appropriate development of the surrounding neighborhood.

Description of Proposed Uses: The applicant proposes to operate a home occupation daycare for up to 12 children within the residential dwelling and yard area. The outside yard area is fully landscaped. It does not appear that a significant portion of the outside yard area is fenced. A small approximately 5’ by 27’ or 135 sq ft. area on the south side of the house has been fenced. Playground equipment is situated in the unfenced front and side yard areas adjacent the corner of E. Sheridan Ave. and S. Diamond St.

SPECIAL INFORMATION

Public Utilities: All available

Public Services: All present

Transportation: The parcel has street and driveway access from E. Sheridan Ave. Off-street parking for 4 cars exists within the driveway and carport. On-street parallel parking for 4-5 cars exists along E. Sheridan Ave. and S. Diamond St.

Per the Engineering Division trip generation reports by the Institute of Transportation Engineers for daycare facilities with up to 12 children create, on average, the following number of trips: AM Peak – 14 vehicle trips, PM Peak – 12 vehicle trips.

Physical Site Characteristics: No changes in the existing physical site characteristics are proposed.

Environmental: Home occupation daycares are compatible with single family residential neighborhoods and have little or no impact on adjoining properties and provide an essential service to area residents and to the city.
Aesthetics/Landscaping: The outdoor yard area around the home and proposed daycare facility is landscaped and compatible with residential living.

Correspondence: As of the date of this memo no correspondence or communication has been received from any neighboring property owners or residents concerning their support for or opposition to the requested conditional use permit for a home occupation daycare for up to 12 children. Code Enforcement has expressed no code violations or complaints from neighbors.

The applicant did not meet Nampa Fire Department exiting requirements for a Licensed Group Daycare (up to 12 Children). Currently she is only eligible for a Family Daycare for up to 6 Children until the back door is changed out.

STAFF FINDINGS & DISCUSSION

Review of the site reveals adequate parking in comparison to what other home daycares have been approved with, but the outdoor front play area is not fenced and is smaller in comparison to other approvals. State Health and Welfare licensing regulates matters relating to the health and safety of day care children.

Since the applicant did not meet Nampa Fire Department exiting requirements for a Licensed Group Daycare (up to 12 Children) staff recommends that if CUP approval is granted that the permit not be effective until the Nampa Fire Department certifies that the back door is changed out as required by the fire department for a facility caring for up to 12 children.

Granting a CUP for daycare use in the neighborhood is reasonable under the basis of the following recommended findings:

1) The location, size, design and operating characteristics of the proposed home occupation day care will be compatible with and will not adversely affect the livability or appropriate development of the surrounding neighborhood with consideration being given to the harmful effect upon desirable neighborhood character. The use will occur in an existing building in an area that will support the intended use.

2) The location, design, and site planning of the proposed home occupation day care will be as attractive as the nature of the use and its location and setting warrants since the outside appearance of the home will not be altered.

3) The proposed home occupation day care will enhance the successful operation of the surrounding area in its basic community function and provide an essential service to the community.

SUGGESTED CONDITIONS OF APPROVAL

Staff sees no reason why the CUP should not be approved as requested, if following the public hearing the Commission determines that the use could be appropriately located and requires the following conditions of approval:

1) That the operator obtains and maintains licensing with State Health & Welfare.
2) That the use as a home occupation daycare does not substantially change the character of the home and be clearly secondary to use of the home as a residence.

3) The outdoor play area and landscaping shall be maintained in a neat and orderly manner.

4) The existing outdoor front play area shall be fenced to retain children from wandering out of the area.

5) All requirements of the Nampa Building, Fire, and Engineering Departments regarding daycare use shall be satisfied as per State Law prior to occupancy.

6) The Conditional Use Permit not be effective until the Nampa Fire Department certifies that the back door is changed out as required for a facility caring for up to 12 children.

7) The size of any advertising signs shall not exceed that allowed for home occupations of 2 sq. ft.

8) The conditional use permit be granted to Mary Luna and shall not be transferable to any other operator or location.

9) Any other conditions felt necessary to address any concerns raised at the public hearing.

ATTACHMENTS

1) Zoning and location map (page 5)

2) Arial view of property (page 6)

3) E. Sheridan Ave. street views (pages 7-8)

4) S. Diamond St. street view (page 9)

5) CUP Application (page 10)

6) Daycare Home Occupation Registration Form (page 11-12)

7) Comment letter from Nampa Engineering Division (page 13)

8) Comment letter from Idaho Transportation Department (page 14)

9) Comment letter from Nampa & Meridian Irrigation District (page 15)

10) NFD day care inspection form and approval (pages 16-17)

11) October 24, 2018 Action Letter to Applicant (page 18)

12) October 23, 2018 Planning and Zoning Commission hearing minutes (page 19)
ATTACHMENT 5
APPLICATION FOR CONDITIONAL USE PERMIT
PLANNING AND ZONING DEPARTMENT
411 3rd STREET S., NAMPA, IDAHO 83686 P: (208) 468-4487 F: (208) 468-2261
Nonrefundable Fee: $234.00 (t acre or less) Nonrefundable Fee: $463.00 (more than 1 acre)

||| |
|---|---|---|---|
| Applicant Name | Home Number | | |
| Mary Luna | 208-461-4171 | | |
| Street Address | Mobile Number | | |
| 1023 E. Sheridan Ave | 208-810-8154 | | |
| City | State | Zip code | Email |
| Nampa | ID | 83686 | | |
| Property Owner Name | Home Number | | |
| JSH Management LLC Sarah Harris | | | |
| Street Address | Mobile Number | | |
| 3680 S. Springfield Ave | 208-945-6206 | | |
| City | State | Zip Code | Email |
| Meridian | ID | 83642 | jshmanagement2015@gmail.com |

Please provide the following REQUIRED DOCUMENTATION to complete the CUP
☐ A copy of one of the following: ☐ Warranty Deed ☐ Proof Of Option ☐ Earnest Money Agreement
☐ A sketch drawing of the site & any adjacent property affected, showing all existing & proposed locations of streets, easements, property lines, uses, structures, driveways, pedestrian walks, off-street parking & off-street loading facilities and landscaped areas, preliminary or final building plans & building elevations, together with any other information considered pertinent to the determination of this matter.
☐ Signed & Notarized Affidavit of Legal Interest (attached). Form must be completed by the legal owner (If owner is a corporation, submit a copy of the Articles of Incorporation or other evidence to show that the person signing is an authorized agent)
☐ Original Legal description of property AND a legible WORD formatted document. (Must have for final recording) Old or illegible title documents will need to be retyped in a WORD formatted document.

Project Description
☐ State (or attach a letter stating) the reason for the proposed Conditional Use Permit:
To watch up to 12 children

Dated this 13th day of August, 2015
Mary Luna

Applicant Signature

NOTICE TO APPLICANT
This application will be referred to the Nampa Planning Commission for its consideration. The Planning Commission shall hold a public hearing on the application and it shall be granted or denied. Notice of public hearing must be published in the Idaho Press-Tribune 15 days prior to said hearing. Notice shall also be posted on the premises not less than 1 week prior to the hearing. Hearing notices will also be mailed to property owners or purchasers of record within 300 feet of the subject property. You will be given notice of the public hearing and should be present to answer any questions.

If a Conditional Use Permit is granted by the Planning Commission, it shall not become effective until after an elapsed period of 15 days from the date of Planning Commission action. During this time any interested person may appeal the action to the City Council. You will be notified of any pending appeals.

If the conditional use permit is denied by the Planning Commission, you may appeal the decision to the City Council within 15 days from the date such action is taken by the Planning Commission. At the time the Conditional use permit becomes effective you will be sent a document which constitutes an official "Conditional Use Permit". This document will enumerate the conditions attached to the issuance of the permit and state the consequences of failure to comply.

OFFICE USE ONLY
FILE NUMBER: CUP - 181 - 2012 PROJECT NAME Home Daycare - 12 Children

12/11/13 Revised

Page 10
ATTACHMENT 6

DAY-CARE HOME OCCUPATION REGISTRATION
PLANNING AND ZONING DEPARTMENT
411 3RD STREET S., NAMPA, IDAHO 83651
P: (208) 468-4487 F: (208) 465-2261

Fee: $90.00

<table>
<thead>
<tr>
<th>Applicant Name</th>
<th>Home Number</th>
<th>Street Address</th>
<th>Mobile Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mary Luna</td>
<td>208-461-4171</td>
<td>1023 E. Sheridan Ave.</td>
<td>208-810-8154</td>
</tr>
<tr>
<td></td>
<td></td>
<td>City: Nampa</td>
<td>Email</td>
</tr>
<tr>
<td></td>
<td></td>
<td>State: ID.</td>
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<td></td>
<td></td>
<td>Zip code: 83681</td>
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<th>Property Owner Name</th>
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<tr>
<td>JSH Management LLC.</td>
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<tr>
<td>Sarah Harris</td>
<td></td>
</tr>
<tr>
<td>Street Address</td>
<td>Mobile Number</td>
</tr>
<tr>
<td>3680 S. Springfield Ave.</td>
<td>208-995-6206</td>
</tr>
<tr>
<td>City: Meridian</td>
<td>Email</td>
</tr>
<tr>
<td>State: ID</td>
<td><a href="mailto:JSHmanagement2015@gmail.com">JSHmanagement2015@gmail.com</a></td>
</tr>
<tr>
<td>Zip Code: 83642</td>
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Notice: The intent of home occupation provisions is to only allow for home occupations that are compatible with the neighborhoods in which they are located. Full scale commercial or professional operations, which would change the appearance or condition of a residence, be detrimental to neighborhood character, or ordinarily be conducted in a commercial or industrial district, should not be conducted at home. Daycare home occupations in AG, RA, RS, RSM, RD and RML are limited to 6 or fewer children (including the caregiver’s children 6 years and under) unless a Conditional Use Permit is applied for and approved by the Planning Commission. Daycare home occupations in the U, RMH, and RP zones are allowed to have up to 12 children (including the caregiver’s own 6 years and under) without a Conditional Use Permit being required. *All Day-Care/Preschool applications will require a fire inspection.

General Information

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Is the facility in your principal residence?

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Are you proposing any structural changes which will change the character of the building as a residence? (The building must retain the appearance of residential use in terms of operating characteristics and cannot destroy the residential character of the neighborhood).

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How many of your own children will you be watching? (age 6 and under) 0 (age 7 and older) 0

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How many children do you propose to care for (not counting your own)? 10

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<th>NO</th>
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Total number of children to be cared for: 10

<table>
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<tr>
<th>YES</th>
<th>NO</th>
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Will you be hiring any employees who do not reside on the premises? (In-home daycare providers are allowed one assistant)

<table>
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<th>NO</th>
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Will you have a sign?

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<th>YES</th>
<th>NO</th>
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<td>X</td>
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Will the In-Home Daycare cause any abnormal automotive or pedestrian traffic? (Vehicular or pedestrian traffic shall not be generated in volumes beyond that normal to the use in the zoning district in which the home occupation is located. If additional parking is needed it shall be met off-street and not in the landscaped front yard).

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<tr>
<th>YES</th>
<th>NO</th>
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Nuisances: No excessive noise that causes interference to the normal senses off the lot.
Please Note:
Reports of property damage to surrounding properties or unsupervised children will be followed up by the City of Nampa, Planning and Zoning Division.

**Acceptance by the City of this registration does not abrogate an applicant's need to comply with all other civil, local, state or federal agency laws, covenants or standards that may appertain to operation of a home based business.**

**Certification**: I am aware of the standards and conditions under which my day-care home occupation is allowed and understand that I must be able to prove residence at the above stated address, if necessary and that if any of the standards are violated I am guilty of a misdemeanor. I am aware that this statement of compliance is for the above stated occupation and business and that if I change addresses, change occupations, or discontinue the occupations that this statement becomes invalid and another statement would need to be filed.

Signature  
Print name

Application Submittal Requirements

1. ☐ Completed application, including signature of applicant.
2. ☐ Approved Fire Inspection. (Schedule Fire Inspection - 468-5770)
3. ☐ Copy of Current Utility bill in the Applicants name.
4. ☐ Signed & Notarized Affidavit of Legal Interest (attached). Form must be completed by the legal owner of property.

OFFICE USE ONLY

FILE NUMBER: HOD - - 20 ZONING DISTRICT

PROJECT NAME

ZONING AGENT SIGNATURE / / DATE
Date: October 2, 2018
Rev:

To: Planning and Zoning
Cc: Daniel Badger, P.E., City Engineer
Cc: Tom Points, P. E., Nampa City Public Works Director
Cc:

From: Jim Brooks – Engineering Division
Subject: Home Occupation Daycare for up to 12-children

Applicant: Mary Luna

Applicant Address: 1023 E. Sheridan Avenue, Nampa, Idaho 83686

Owner: JSH Management, LLC., Sarah Harris

Owner Address: 3680 So. Springfield Avenue, Meridian, Idaho 83642

Parcel Address: 1023 E. Sheridan Avenue, Nampa, Idaho 83686

CUP-00121-2018 for the October 23, 2018 Planning & Zoning Meeting

Applicant’s request is to have a home daycare for up to 12 children in her residence at 1023 E. Sheridan Avenue.

Trip generation reports by the Institute of Transportation Engineers for daycare facilities with up to 12 children create, on average, the following number of trips:

- AM Peak – 14 vehicle trips
- PM Peak – 12 vehicle trips

The Engineering Division does not oppose the granting of this conditional use permit.
October 4, 2018

Shellie Lopez
City of Nampa
411 3rd Street South
Nampa, Idaho 83651

VIA EMAIL

<table>
<thead>
<tr>
<th>Development Application</th>
<th>CUP-00121-2018</th>
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<tbody>
<tr>
<td>Project Name</td>
<td>HOME DAYCARE</td>
</tr>
<tr>
<td>Project Location</td>
<td>1023 East Sheridan Avenue, east of SH-45 milepost 26.45</td>
</tr>
<tr>
<td>Project Description</td>
<td>Establish a home occupation day care for up to 12 children</td>
</tr>
<tr>
<td>Applicant</td>
<td>Mary Luna</td>
</tr>
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The Idaho Transportation Department (ITD) reviewed the referenced conditional use permit application and has the following comments:

1. This project does not abut the State highway system.
2. Idaho Code 40-1910 does not allow advertising within the right-of-way of any State highway.
3. IDAPA 39.03.60 rules govern advertising along the State highway system. The applicant may contact Justin Pond, Right-of-Way Section Program Manager, at (208) 334-8832 for more information.
4. ITD does not object to the establishment of a home occupation day care as presented in the application.

If you have any questions, you may contact Tom Haynes at (208) 334-8944 or me at (208) 332-7190.

Sincerely,

Ken Couch
Development Services Coordinator
Ken.Couch@itd.idaho.gov
RE: CUP-00121-2018/ Home Daycare; 1023 E. Sheridan Avenue

Dear Norm:

Nampa & Meridian Irrigation District (NMID) has no comment on the above-referenced application.

All private laterals and waste ways must be protected. All municipal surface drainage must be retained on-site. If any surface drainage leaves the site, NMID will need to review drainage plans. The developer must comply with Idaho Code 31-3805.

Please feel free to contact me with any further questions

Sincerely,

[Signature]

David T. Duvall
Crew Foreman
Nampa & Meridian Irrigation District
DTD/ gnf

Cc: Office/ file
Questions are worded so that a negative answer will indicate an unsatisfactory condition

GENERAL REQUIREMENTS FOR ALL DAYCARE FACILITIES
Yes Exits are located to provide an unobstructed path outside the building to a public way or area of refuge?
Yes Can exit doors be opened from inside without the use of a key or any special knowledge or effort?
Yes Are two exits provided for Group/Daycare Centers?
Yes Do the required exits have a clear width of 32" and height of 6'8"?
Yes Are sleeping rooms provided with one egress window or a door directly outside?
Yes Egress windows from sleeping areas operable from the inside without the use of tools, special knowledge or effort?
N/A Where children are located in a basement, are two exits provided; one of which exits directly to the outside?
Yes Serviced Fire Extinguisher with a 2A-10BC rating within 75' travel distance and mounted appropriately?
Yes Is there an operable telephone on the premises?
Yes 6" address numbers contrasting with its background and clearly visible from the street?
Yes Is there a smoke detector installed in basements where the stairway opens into the facility and provided with sounding device audible in the sleeping areas?
Yes Are smoke detectors provided in a central location in the corridor or area giving access to rooms used for sleeping?
Yes Are smoke detectors installed in all sleeping rooms?

FACILITIES WITH OVER FIFTY (50) CHILDREN

Do exit doors swing in the direction of egress?
Do exit doors have panic hardware?
Are exit signs installed at required exit doorways and where necessary to clearly indicate the direction of egress?
Is there an approved fire alarm system/sprinkler system installed?

FACILITY APPROVAL STATUS

Facility Passes Fire Inspection-YES
Occupant Load – 6 Children and 2 Adult Caregivers

This Facility is classified as a Family Daycare.

Copies sent to:
Owner/Operator
Health & Welfare Daycare Licensing
She did not meet exiting requirements for a Licensed Group Daycare, but can currently Register for a Family Daycare for up to 6 Children until she changes out her back door.

Hope that helps,

Mel

Sweet! Thank you! 😊

Thank you & Have a great day!

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October 24, 2018

Mary Luna  
1023 E. Sheridan Avenue  
Nampa, ID 83686

Subject: Conditional Use Permit for a Home Occupation Day Care for up to 12 children in a RS6 (Single Family Residential - 6,000 sq. ft.) zoning district at 1023 E. Sheridan Ave. (A .10 acre or 4,300 sq. ft. parcel being the east 86’ of Lot 1, Block 12, Kurtz Addition, and a portion of the SE 1/4, Section 27, T3N, R2W, BM) for Mary Luna (CUP 121-18).

Dear Ms. Luna:

Please be advised that the Nampa Planning and Zoning Commission at their October 23, 2018 meeting opened the public hearing on the above conditional use permit request and continued the hearing to their January 8, 2019 meeting.

Since your home does not currently meet the Nampa Fire Department exiting requirements for a Licensed Group Daycare (up to 12 Children) the Commission determined to continue the hearing for possible decision at that time. If the Nampa Fire Department certifies that the back door has been changed out as required for a facility caring for up to 12 children, a decision and possible approval of your CUP should be able to be had at that time.

Sincerely,

Norman L. Holm, Planning Director  
City of Nampa
Public Hearing No. 2:
Conditional Use Permit for Home Occupation Day Care for up to 12 children in an RS-6 (Single Family Residential – 6000 sq ft) zoning district at 1023 E Sheridan Ave. (A .10 acre or 4300 sq ft parcel being the east 86 ft of Lot 1, Block 12 Kurtz Addition, and a portion of the SE ¼ Section 27 T3N R2W BM), for Mary Luna, dba Mary’s Day Care. (CUP-00121-20180).

Chairman McGrath proceeded to public hearing.

Mary Luna of 1023 E Sheridan, Nampa – the applicant:
- Ms Luna stated the daycare was mostly for her grandchildren and family members and she would like approval of the Conditional Use Permit in order to continue.
- In response to a question from Chairman McGrath, Ms Luna stated she had been babysitting for about 16 years.
- According to Ms Luna, she occasionally babysat for her daughter’s friends until they could arrange for another daycare, but primarily it was just daycare for her family members.
- Chairman McGrath inquired if Ms Luna had a daycare license and Ms Luna stated she had received her license through the State of Idaho, ICCP.
- Kehoe noted the Nampa Fire Department inspection had indicated the rear door at Ms Luna’s home was not adequate for a daycare caring for up to 12 children and inquired if that issue had been resolved.
- Ms Luna explained at the present time she cared for four children during the daytime and two in the evenings and one on the weekend.
- Ms Luna advised the Nampa Fire Department was allowing her to continue with her daycare without bringing the back door into conformance while there were only 6 children or less.

Planning Director Holm:
- Holm advised the applicant would not require a Conditional Use Permit to care for 6 children or less.
- Discussion followed regarding if the applicant did not bring the back door up to standard, and was only caring for 6 children, would C-U-P approval be required.
- If the applicant withdrew the C-U-P application, confirmed Holm, then no decision would need to be made.
- Ms Luna stated she had talked to her landlord and was advised the back door could be widened in the future when needed by Ms Luna.
- Discussion followed regarding whether to grant the C-U-P provisionally until approval of the rear door by the Nampa Fire Department, however, there would be difficulty in following up on whether there were only 6 children at the premises until that time.

Ms Luna:
- Ms Luna reported she had talked to the landlord about widening the door in January.
- Kehoe suggested the application could be on hold or tabled until February when it would come back to the Planning Commission for a decision.
- Holm suggested the Nampa Fire Department could then perform an inspection and advise if the premises met the required standards for a daycare.
- Discussion followed regarding the fact the applicant could request the application come back before the Commission in January if the required door widening was accomplished.

Kirkman motioned and Miller seconded to continue the Conditional Use Permit application for a daycare for up to 12 children at 1023 E Sheridan Ave for Mary Luna to the January 8, 2019 Planning and Zoning Commission meeting.
Motion carried.

Meeting adjourned at 7:44 p.m.

Norman L Holm, Planning Director

Nampa Planning and Zoning Commission Meeting – October 23, 2018
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